



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 25, 1998

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main, Room 501
Dallas, Texas 75201

OR98-2027

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118305.

The City of Dallas received a request for copies of a city police officer's personnel file and "internal affairs and public integrity cases that have involved" the officer. You indicate that the personnel file will be released to the requestor except for the officer's social security number, home address and telephone number, and family information, if any, all of which information you seek to withhold as confidential by law.

Section 552.117(b), of the Government Code, excepts from public disclosure peace officers' home addresses, home telephone numbers, social security numbers, and information revealing "whether [the officer] has family members." We agree that police officer address, telephone number, social security number, and family information is confidential and that you must withhold it.

As for the internal affairs and public integrity files, you advise that you will release "completed Internal Affairs files" except for a professional psychological evaluation which you say must be withheld pursuant to Health and Safety Code section 611.002. These provisions make confidential *inter alia* "records of the identity, diagnosis, evaluation or treatment of a patient that are created or maintained by" mental health professionals, with exceptions not applicable here. We agree that the psychological evaluation must be withheld under section 611.002.

With respect to pending Public Integrity and Internal Affairs investigations files, you say that the police department is currently conducting three criminal investigations involving the officer in question. You argue that release of the files would interfere with the

investigations and that the city may consequently withhold these files under section 552.108(a).

Section 552.108(a)(1) excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

In our opinion, you have sufficiently demonstrated that the material in the files labeled "Pending Public Integrity Files" and "Pending Internal Affairs Files" relates to these pending criminal investigations and that their release could interfere with the investigations. You may therefore withhold this information¹ with the exception of basic information, which under subsection (c) of section 552.108, must be released. *See Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).²

We do not find, however, that you have sufficiently demonstrated that the material, apparently consisting of internal files, the topmost document of which is titled "Complainant Contact Sheet," (hereinafter "Other Files") relates to these criminal investigations or other criminal matters. You argue that this material may be withheld under Government Code section 552.108(b). Section 552.108(b) excepts from required public disclosure, in pertinent part,

[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

¹Please note, however, that some of this information -- that pertaining to a charge of official oppression -- has been addressed in a prior decision of this office, Open Records Letter 98-1871 (1998), and ordered released because you did not sufficiently explain there why the information should be excepted. Information ordered released to the public in that decision, may not now be withheld. *See* Open Records Decision Nos. 435, 436 (1986).

²We note that some of the information in the "Pending Public Integrity Files" and "Pending Internal Affairs Files" is also confidential by law. Should you decide to release these files in the future you must nevertheless withhold e.g. medical records (see V.T.C.S. art. 4495b, sec. 5.08(b)), criminal history records (see Gov't. Code ch.411, subch. F), and police officer addresses and telephone numbers (see. Gov't Code sec. 552.117). *See also* Gov't Code sec. 552.352 (criminal penalties for distribution of confidential information).

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

The protection of these provisions, as well as that of subsection (a) of section 552.108, is limited to records relating to crime prevention and investigation. Therefore the "Other Files" may not be withheld under section 552.108. We do note that these files appear to contain some police officer address, telephone and/or family information which must be withheld under section 552.117. *See supra*. Otherwise they must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 118305

Enclosures: Submitted documents

cc: Ms. Miriam Rozen
Dallas Morning News
Communications Center
Dallas, Texas 75265
(w/o enclosures)